Licensing Foreign Nationals Access To Critical Technology

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Terms of Reference

- Requirements to Enhance/Control Access By FN's to ITAR Facilities

- Licensing Requirements In the D-Trade Environment

- TAA vs DSP-5?

- Management/Oversight of License Approvals Is Critical

- FN Issues Outside of Employment: On What Terms to you Encounter Them?

Enhancing Accountability of FN's In ITAR Facilities

- National Security/Foreign Policy Requirements Post 9/11 to Better Identify and Control Access To Sensitive Facilities

- Audits of Current Licensing Procedures Have Identified Areas for Improvement

- Current Licensing Practices Obscure What FN's Work In What Areas

- Transition to D-Trade Provides Opportunity to Improve Our Processes In This Area

D Trade Procedures for FN Licensing

- DSP-5 Becomes the Initial/Primary Approval for Employment/Access to Technical Data

- Approval Consistent With Validity Period of Work Visa

- If FN To Receive Defense Services TAA Would Also Be Required But *Not In Lieu* of the DSP-5

- Critical and Consistent Completion of the Licensee Application Is the Key to Success and Avoiding RWA's

- Update of Commodity Codes

Keys to Completing the Application

- Country of Ultimate Destination (#3): Country Passport Is Issued By. If Dual, Specify In #18

- Commodity (#10): Details of Tech Data Release/Scope of Employment

- Foreign End User: (#14) Address In Country Under #3 They Will Return To. *Explain Fully If They Do Not Match*

- Foreign Intermediate/Consignee (#18): Dual Nationals and/or Maintains Residency In Other Countries

- Consignor (#19): US Residence

- Purpose/Program (#20) "For Employment in the U.S…"

License Support Package

- Transmittal Letter Ties Application Together

- Passport/Immigration Status

- Complete Position Description/Job Duties

- Nondisclosure Agreement

- Technology Control Plan (126.13©)

- 7 Collated Packages

DSP-5 vs TAA

- Participating In Activities Traditionally Defined As Defense Services vs Only Access to Data?

- Increased Utilization of TAA 's Consistent With Increased Licensing of Defense Services

- Integrated Product Teams

- Design Reviews/Failure Investigations

- Joint Development/Design Teams

- Major Programs (Missile Defense, JSF) Actively Solicit International Partners

Post Employment Oversight

- Procedures to Monitor/Periodically Review Employment

- Alert to Changes In Duties/Assignments and Immigration Status

- License Must Always Be Renewed .125.4(b)(4) Does Not Apply

Facility Visits: License or Exemption?

- Exemptions for Plant Visits (125.5)

- Oral/Visual Disclosure of Unclassified Tech Data During Classified Visit

- Oral/Visual Release of Classified Information Approved By Appropriate USG Agency

- Classified/Unclassified Data Approved By DDTC or Cognizant USG Agency

Licensing Plant Visits

- Advance Planning Critical: Who Is Coming and What Will They Have Access To

- TAA vs DSP-5

- Clearly Defined License Submission Including Scope and Timeframes

- Support Documentation and Transmittal Letter

U.S. and International Trade Shows

- Plan UP Front: Static Display, Demonstration or Marketing?

- DSP-73: No Technical Data/Discussions Authorized In Excess of Public Domain

- U.S. Trade Shows: Similar Considerations But No Physical Export of Hardware

- 123.16(b)(5) Exemption

Summary

- Current International Environment Demands Tighter Controls/Accountability of FN Access To Critical Technology

- Long Term Planning and Careful Consideration For Support Requirements A Key Factor in Successful Submissions

- Oversight During Post Employment Is Critical

- Other Venues For Release of Technical Data Outside of Foreign Employment